



Department of the Treasury
Internal Revenue Service
Washington D.C. 20224

201051026

OCT 01 2010

Uniform Issue List: 408.03-00

Legend:

SE: T, EP, RA, T2

Taxpayer A:

IRA X:

***** IRA maintained by *****
on behalf of *****

IRA Y:

***** IRA maintained by *****
on behalf of *****

Account D:

***** Checking Account maintained by
***** on behalf of *****

Amount A:

Financial Institution A:

Financial Institution B:

Date 1:

Date 2:

Date 3:

Date 4:

Dear *****,

This is in response to a request you submitted on *****, in which
Taxpayer A requests a waiver of the 60-day rollover requirement contained in
section 408(d)(3) of the Internal Revenue Code (the "Code").

The following facts and representations have been submitted under penalty of
perjury in support of the ruling requested:

Taxpayer A, age , was the owner of IRA X which was maintained by Financial Institution A. On Date 1 Taxpayer A received a distribution from IRA X totaling Amount A. Taxpayer A asserts that her failure to accomplish a rollover of Amount A within the 60-day period prescribed by section 408(d)(3) of the Code was due to the sudden and unexpected death of her spouse. Taxpayer A has documented that she has not used Amount A for any other purposes.

On Date 1, Taxpayer A received Amount A from IRA X with the intent of rolling it over to another IRA. On Date 2, Taxpayer A's spouse died suddenly and unexpectedly. On Date 3, while settling her spouse's estate, Taxpayer A discovered the distribution check of Amount A. The 60 day rollover period had expired seven days earlier. Upon discovering the check Taxpayer A deposited it into Account D. Account D is a non-IRA account with Financial Institution B. Taxpayer A then consulted with a Certified Public Accountant for financial advice regarding Amount A. On Date 4 Taxpayer A withdrew Amount A from Account D and transferred Amount A into IRA Y.

Taxpayer A has provided documentation that on Date 1 a distribution was issued to Taxpayer A from IRA X and that Taxpayer A's spouse died on Date 2 which was within the 60 day rollover period. Taxpayer A has provided documentation that prior to her spouse's death she intended to rollover Amount A into another IRA.

Based on the facts and representations, Taxpayer A request a ruling that the Internal Revenue Service waive the 60-day rollover requirement with respect to the distribution of Amount A contained in section 408(d)(3) of the Code in this instance.

Section 408(d)(1) of the Code provides that, except as otherwise provided in section 408(d), any amount paid or distributed out of an IRA shall be included in gross income by the payee or distributee, as the case may be, in the manner provided under section 72 of the Code.

Section 408(d)(3) of the Code defines and provides the rules applicable to IRA rollovers.

Section 408(d)(3)(A) of the Code provides that section 408(d)(1) of the Code does not apply to any amount paid or distributed out of an IRA to the individual for whose benefit the IRA is maintained if--

- (i) the entire amount received (including money and any other property) is paid into an IRA for the benefit of such individual not later than the 60th day after the day on which the individual receives the payment or distribution; or

- (ii) the entire amount received (including money and any other property) is paid into an eligible retirement plan (other than an IRA) for the benefit of such individual not later than the 60th day after the date on which the

payment or distribution is received, except that the maximum amount which may be paid into such plan may not exceed the portion of the amount received which is includible in gross income (determined without regard to section 408(d)(3)).

Section 408(d)(3)(B) of the Code provides that section 408(d)(3) does not apply to any amount described in section 408(d)(3)(A)(i) received by an individual from an IRA if at any time during the 1-year period ending on the day of such receipt such individual received any other amount described in section 408(d)(3)(A)(i) from an IRA which was not includible in gross income because of the application of section 408(d)(3).

Section 408(d)(3)(E) of the Code provides that the rollover provisions of section 408(d) do not apply to any amount required to be distributed under section 408(a)(6).

Section 408(d)(3)(I) of the Code provides that the Secretary may waive the 60-day requirement under section 408(d)(3)(A) of the Code where the failure to waive such requirement would be against equity or good conscience, including casualty, disaster, or other events beyond the reasonable control of the individual subject to such requirement. Only distributions that occurred after December 31, 2001, are eligible for the waiver under section 408(d)(3)(I) of the Code.

Revenue Procedure 2003-16, 2003-4 I.R.B. 359 (January 27, 2003) provides that in determining whether to grant a waiver of the 60-day rollover requirement pursuant to section 408(d)(3)(I) of the Code, the Service will consider all relevant facts and circumstances, including: (1) errors committed by a financial institution; (2) inability to complete a rollover due to death, disability, hospitalization, incarceration, restrictions imposed by a foreign country or postal error; (3) the use of the amount distributed (for example, in the case of payment by check, whether the check was cashed); and (4) the time elapsed since the distribution occurred.

The information presented and documentation Taxpayer A submitted is consistent with her assertion that her failure to accomplish a timely rollover was due to her mental state caused by the unexpected and sudden death of her spouse.

Therefore, pursuant to section 408(d)(3)(I) of the Code, the Service hereby waives the 60-day rollover requirement with respect to the distribution of Amount A from IRA X. Provided all other requirements of section 408(d)(3) of the Code, except the 60-day requirement, are met with respect to such contribution, the contribution of Amount A into IRA Y will be considered a valid rollover contribution within the meaning of section 408(d)(3) of the Code.

No opinion is expressed as to the tax treatment of the transaction described herein under the provisions of any other section of either the Code or regulations which may be applicable thereto.

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This letter is directed only to the taxpayer who requested it. Section 6110(k) 3) of the Code provides that it may not be used or cited as precedent.

If you wish to inquire about this ruling, please contact *****, Tax Law Specialist Employee Plans Technical Group 2 at (***) ***** or via fax at (***) *****. Please address all correspondence to

Sincerely yours,


*****, Manager

Employee Plans Technical Group 2

Enclosures:

Deleted copy of letter ruling
Notice of Intention to Disclose

CC:
